

REMARKS

Status of the Claims

The non-final Office Action mailed on June 25, 2008 has been received and reviewed.

In the non-final Office Action, previously presented claims 1, 2, 4-11, and 13-16 were pending and were rejected.

By this amendment, previously presented claims 13 and 14 are cancelled and new claims 17 and 18 are added. Previously presented claims 1, 2, 4-11, 15, and 16 remain as is.

Claim Objections

Claims 13, 14/12 and 14/13 are objected to because they depend from cancelled claim 12.

Claims 13 and 14 have been cancelled. Thus, the objection is moot.

Claim Rejection - 35 USC § 112

Claims 13, 14/12 and 14/13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13, 14/12 and 14/13 are indefinite as being dependent upon cancelled 12.

Claims 13 and 14 have been cancelled. Thus, the rejection is moot.

Claim Rejections - 35 USC § 102

Claims 1, 4 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kakiuchi (US Patent 5,835,143).

The Examiner's interpretation of Kakiuchi does not read on "obtaining, while changing the focal length of an optical system, multiple image data comprising brightness data and a plurality of color data" in previously presented independent claims 1, 7, and 15.

In reading Kakiuchi on "obtaining, while changing the focal length of an optical system, multiple image data comprising brightness data and a plurality of color data" in previously presented claim 1, the Examiner relies on

3:57-4:7 and FIG. 4 of Kakiuchi for "obtaining" the "brightness data", 4:12-15 (which describes step S101 in FIG. 5A) and step S102 in FIG. 5A of Kakiuchi for "obtaining" the "plurality of color data", and steps S106 and S111 in FIGS. 5B and 5C of Kakiuchi for "obtaining" such multiple image data "while changing the focal length of an optical system".

However, "obtaining" the "brightness data" as disclosed in 3:57-4:7 and FIG. 4 of Kakiuchi, "obtaining" the "plurality of color data", as disclosed in 4:12-15 (which describes step S101 in FIG. 5A) and step S102 in FIG. 5A of Kakiuchi, occur *before* (not "while", i.e. during) "changing the focal length of an optical system" as disclosed in S106 and S111 in FIGS. 5B and 5C of Kakiuchi. Under the circumstances, how can the Examiner interpret Kakiuchi to read on previously presented claim 1? An explanation in this regard is requested from the Examiner.

In 3:22-24 of Kakiuchi, it is mentioned that the lens 11 is moved, but this occurs *after* steps 101 and 102 (not during steps 101 and 102).

In 5:22-28 of Kakiuchi, it is mentioned that step 107 in FIG. 5B is similar to step 101 in FIG. 5A and step 108 in FIG. 5B is similar to step 102 in FIG. 5A. Steps 107 and 108 do not occur *during* step 106 in FIG. 5B, i.e. during forward lens movement a predetermined calculated amount (5:17-21). Instead, Steps 107 and 108 occur *after* forward lens movement the predetermined calculated amount. Completion of the lens movement in the forward calculated direction, as well as start of such lens movement, occur in step S106. See 5:29-39 in Kakiuchi. This is corroborated by 5:40-65 of Kakiuchi.

If the Examiner disagrees with any of the foregoing assessment of Kakiuchi in regard to previously presented claim 1, he is requested to explain in detail his position. This is necessary to understand his position for purposes of further prosecution.

The same comments apply equally to previously presented claims 7 and 15, so a separate discussion of them is not warranted.

Accordingly, previously presented claims 1, 7, and 15 differ from Kakiuchi as stated above.

Kakiuchi does not teach calculation of a focal length as called for in previously presented independent claims 1 and 7.

Where in Kakiuchi is there any disclosure of calculating a focal length from the obtained multiple image data using a peak position corresponding to a position of a peak value of contrast evaluated values of the obtained multiple image data (comprising obtained brightness data and a plurality of obtained color data)? The Examiner is requested to answer this question in order to clarify the issue for further prosecution.

Kakiuchi stops lens movement when the lens is within a "focus allowance range". See 5:62-65 of Kakiuchi. This is not calculation of a focal length as called for in previously presented claims 1 and 7.

Accordingly, previously presented claims 1 and 7 differ from Kakiuchi as stated above.

Claim Rejection - 35 USC § 103

Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kakiuchi in view of Rosenqvist et al. (US 6,590,612).

Regarding the rejection of previously presented independent claim 15, one of ordinary skill in the art would not want to modify Kakiuchi as urged by the Examiner in view of Rosenqvist et al.

The Examiner acknowledges that "a focal length is not calculated for each respective color data, or that the image capturing is performed at a focal length having a peak contrast for each respective color data".

Then, the Examiner states that it would be obvious to modify Kakiuchi to calculate separate focal lengths and capture images at said focal lengths as taught by Rosenqvist et al. by using the contrast of each color component as taught by Kakiuchi for the benefit of achieving a low-cost system in Kakiuchi. However, this would make Kakiuchi *more* expensive.

Accordingly, one of ordinary skill in the art would not want to modify Kakiuchi as urged by the Examiner in view of Rosenqvist et al.

Rosenqvist et al. should not be combined with Kakiuchi for other reasons.

Rosenqvist et al. teaches obtaining ("grabbing") a red color image, a blue color image, and a green color image sequentially from an RGB camera. See 4:51-67. This cannot be read on obtaining "multiple image data comprising brightness data and a plurality of color data" in previously presented claim 1. The

red color image, the blue color image, and the green color image are not "a plurality of color data" as previously presented claim 1.

In Rosenqvist et al., image grabbing of the red color image, the blue color image, and the green color image is to allow use of a non-color compensated lens, thereby lowering the cost of the device. See 4:51-67. Such a teaching mitigates against combining Rosenqvist et al. with Kakiuchi as the Examiner has done.

In Rosenqvist., auto focusing must be performed between image grab. See 5:12-20. Thus, image grabbing is not obtained "while changing the focal length" as the Examiner has stated.

For these and other reasons provided in the earlier Amendment (incorporated herein) filed February 29, 2008, Rosenqvist et al. should not be combined with Kakiuchi.

The Examiner is requested to address each of the reasons specifically mentioned herein and the other reasons incorporated herein from the earlier Amendment.

Claim Rejections - 35 USC § 103

Claims 2, 5(1), 5(2), 5(4) and 10(7) are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kakiuchi in view of Watanabe et al. (US Patent Application Publication 2003/0063212).

Claims 6(1), 6(4), 8, 9, 11(7), 11(8) and 11(9) are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kakiuchi in view of Omata et al. (US Patent 6,067,114).

Claim 6(2) is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kakiuchi in view of Watanabe et al. as applied to claim 2, and further in view of Omata et al.

Claims 10(8) and 10(9) are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kakiuchi in view of Omata et al. as applied to claims 8 and 9, and further in view of Watanabe et al.

Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kakiuchi in view of Rosenqvist et al., as applied to claim 15, and further in view of Yoshida et al. (US Patent 5,189,524).


The dependent claims are patentable at least for the reasons provided above for patentability of the independent claims. However, the Applicant reserves the right to provide other reasons for patentability of the dependent claims that would be limited to the subject matter only of the dependent claims

Summary

For each of the reasons set forth above, it is believed that the claims should be allowed. Accordingly, reconsideration and favorable action are respectfully solicited.

Should the Examiner consider that an additional amendment to the claims is necessary to make the claims allowable, the favor is requested of a telephone call to the undersigned Attorney for Applicant for the purpose of discussing such amendment.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.